

STATE OF CALIFORNIA  
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY  
STATE WATER RESOURCES CONTROL BOARD

**DIVISION OF WATER RIGHTS**

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In the Matter of License 10887 (Application 23869)

**Robert J. Fetzer**

**ORDER ISSUING AMENDED LICENSE**

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SOURCE: Unnamed Creek tributary to West Fork Russian River

COUNTY: Mendocino

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**WHEREAS:**


1. License 10887 was issued pursuant to permitted Application 23869 on March 26, 1979, and was recorded with the County Recorder of Mendocino County on March 28, 1979, in Book 1199, Page 368. Recording of this license, and subsequent orders issued thereto, is prescribed by Water Code section 1650.
2. The Division of Water Rights (Division) record of ownership for License 10887 shows the current holder of the license as Robert J. Fetzer.
3. Division staff conducted an inspection on July 19, 2001. As a result of this inspection, Division staff found that uses of the reservoir include Recreation and Fish and Wildlife Enhancement. The consumptive use of water for Irrigation and Frost Protection uses ceased for a period greater than five years. In addition, no direct diversion of water under the license has been made from the Unnamed Creek.
4. The State Water Resources Control Board (SWRCB) has determined that the license shall be amended to include the following specific corrections or changes:
  - a. Add Recreational and Fish and Wildlife Enhancement as purposes of use pursuant to section 798 of the California Code of Regulations, title 23.
  - b. Delete the direct diversion amount and Irrigation and Frost Protection uses from License 10887 pursuant to section 1241 of the California Water Code.
5. The SWRCB standard license terms pertaining to continuing authority, water quality objectives, protection of endangered species, and the need for a State Department of Fish and Game stream alteration agreement shall be updated or added to the amended license.
6. The SWRCB has determined the amended license does not constitute an initiation of a new right, and does not injure prior rights or the public trust resources of the State.

**THEREFORE, IT IS ORDERED:**

The attached Amended License 10887 is issued, superseding former License 10887 issued on March 26, 1979. The priority of Amended License 10887 is September 20, 1971.

STATE WATER RESOURCES CONTROL BOARD

**ORIGINAL SIGNED  
BY DAVID R. BERINGER**

 *Harry M. Schueller*  
*Chief Deputy Director*

Dated: **FEB 21 2002**

KEmanuel\lfischer 1/30/02

U:\Comdrv\KEmanuel\A023869 – final order



STATE OF CALIFORNIA  
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY  
STATE WATER RESOURCES CONTROL BOARD

**DIVISION OF WATER RIGHTS**

**Amended License for Diversion and Use of Water**

APPLICATION 23869  
Page 1 of 3

PERMIT 16416

LICENSE 10887

**THIS IS TO CERTIFY, That**

Robert J. Fetzer  
11000 West Road  
Redwood Valley, CA 95418

has the right to the use of the waters of an **Unnamed Creek** in **Mendocino County**  
tributary to **West Fork Russian River** thence **Russian River**  
for the purpose of **Recreational and Fish and Wildlife Enhancement uses**.

**Amended License 10887** supersedes the license originally issued on **March 26, 1979**, which was perfected in accordance with the laws of California, the Regulations of the State Water Resources Control Board (SWRCB), or its predecessor, and the terms of **Permit 16416**. The priority of this right dates from **September 20, 1971**. Proof of maximum beneficial use of water under this license was made as of **May 12, 1976 and July 19, 2001** (the date of inspection).

The amount of water to which this right is entitled and hereby confirmed is limited to the amount actually beneficially used for the stated purposes and shall not exceed **nine and four-tenths (9.4) acre-feet per annum to be collected from December 1 of each year to June 1 of the succeeding year**.

The capacity of the reservoir covered by this license shall not exceed 9.4 acre-feet.

After the initial filling of the reservoir, the Licensee's right under this license extends only to water necessary to keep the storage reservoir full by replacing water lost by evaporation and seepage, and to refill if emptied for necessary maintenance or repair. This right shall be exercised only during the authorized diversion season.

(0000040)

Unless a change is approved by the SWRCB, water used under this license may be diverted, rediverted, stored and used only as specified below:

**THE POINT OF DIVERSION OF SUCH WATER IS LOCATED:**

By California Coordinate System of 1927, Zone 2, North 598,011 feet and East 1,654,141 feet, being within SW $\frac{1}{4}$  of NW $\frac{1}{4}$  of projected Section 29, T17N, R12W, MDB&M.

**A DESCRIPTION OF THE LANDS OR THE PLACE WHERE SUCH WATER IS PUT TO BENEFICIAL USE IS AS FOLLOWS:**

At reservoir within SW $\frac{1}{4}$  of NW $\frac{1}{4}$  of projected Section 29, T17N, R12W, MDB&M, as shown on map on file with the SWRCB.

*The right hereby confirmed to the diversion and use of water is restricted to the point or points of diversion herein specified and to the lands or place of use herein described.*

*Reports shall be filed promptly by the licensee on the appropriate forms which will be provided for the purpose from time to time by the SWRCB.*

*Licensee shall allow representatives of the SWRCB and other parties, as may be authorized from time to time by the SWRCB, reasonable access to project works to determine compliance with the terms of this license.*

*Pursuant to Water Code sections 100 and 275 and the common law public trust doctrine, all rights and privileges under this license, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the SWRCB in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.*

*The continuing authority of the SWRCB may be exercised by imposing specific requirements over and above those contained in this license with a view to eliminating waste of water and to meeting the reasonable water requirements of licensee without unreasonable draft on the source. Licensee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this license and to determine accurately water use as against reasonable water requirement for the authorized project. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.*

*The continuing authority of the SWRCB also may be exercised by imposing further limitations on the diversion and use of water by the licensee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution article X, section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust.*

*The quantity of water diverted under this license is subject to modification by the SWRCB if, after notice to the licensee and an opportunity for hearing, the SWRCB finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the SWRCB finds that: (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.*

*This license does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this water right, the licensee shall obtain authorization for an incidental take prior to construction or operation of the project. Licensee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this license.*

*If construction or rehabilitation work is required for the diversion works covered by this license within the bed, channel, or bank of the affected water body, the licensee shall enter into a streambed or lake alteration agreement with State Department of Fish and Game. Licensee shall submit a copy of the agreement, or waiver thereof, to the Division of Water Rights prior to commencement of work. Compliance with the terms and conditions of the agreement is the responsibility of the licensee.*

*This license is granted and the licensee accepts all rights herein confirmed subject to the following provisions of the Water Code:*

Section 1625. Each license shall be in such form and contain such terms as may be prescribed by the SWRCB.

Section 1626. All licenses shall be under the terms and conditions of this division (of the Water Code).

Section 1627. A license shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code) but no longer.

Section 1628. Every license shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article (of the Water Code) and the statement that any appropriator of water to whom a license is issued takes the license subject to the conditions therein expressed.


Section 1629. Every licensee, if he accepts a license, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any license granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any licensee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any licensee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Section 1630. At any time after the expiration of twenty years after the granting of a license, the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State shall have the right to purchase the works and property occupied and used under the license and the works built or constructed for the enjoyment of the rights granted under the license.

Section 1631. In the event that the State, or any city, city and county, municipal water district, irrigation district, lighting district, or political subdivision of the State so desiring to purchase and the owner of the works and property cannot agree upon the purchase price, the price shall be determined in such manner as is now or may hereafter be provided by law for determining the value of property taken in eminent domain proceedings.

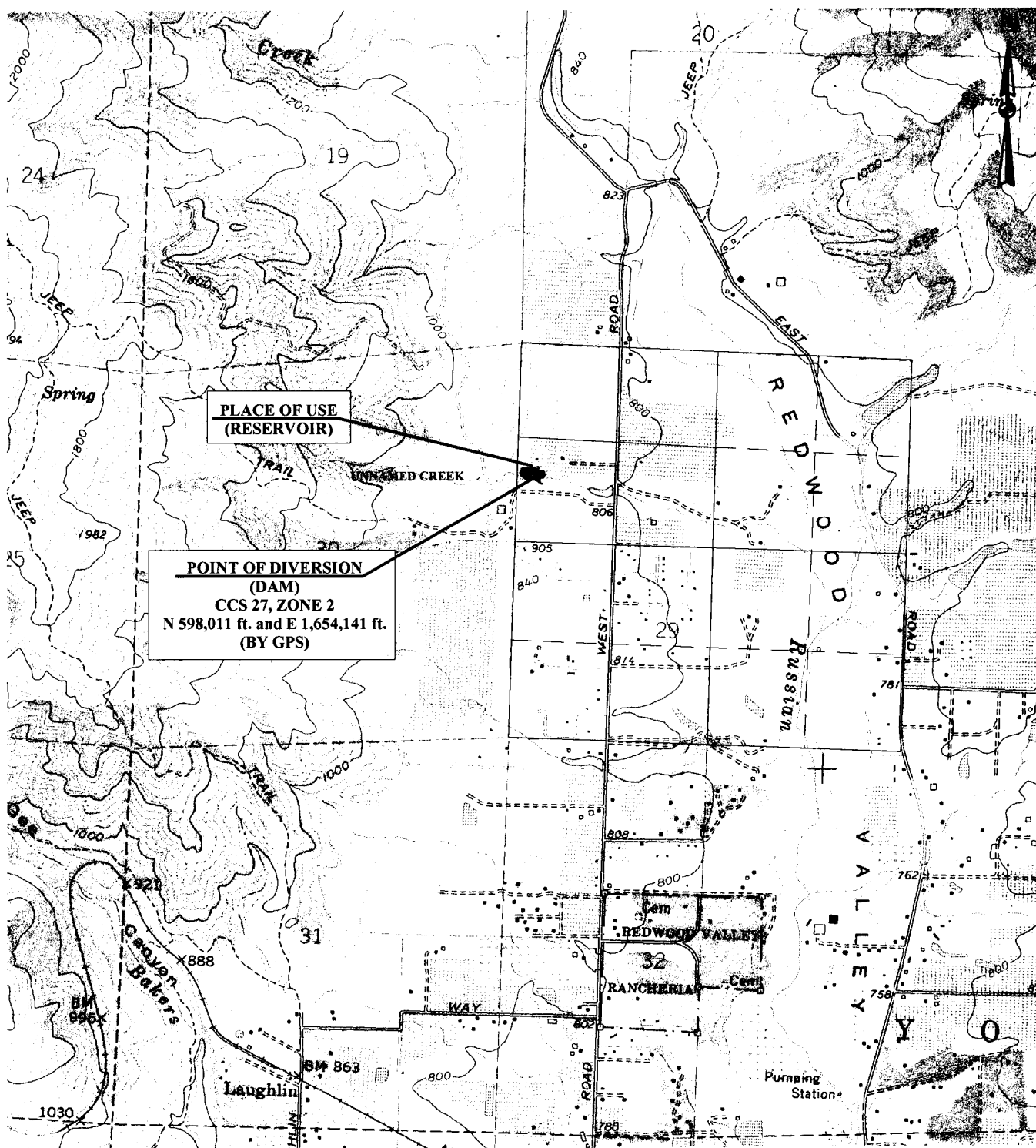
STATE WATER RESOURCES CONTROL BOARD

ORIGINAL SIGNED  
BY DAVID R. BERINGER

 *Harry M. Schueller*  
*Chief Deputy Director*

Dated: **FEB 21 2002**

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U:\Comdrv\KEmanuel\A023869 - amended license



OWNER: ROBERT J. FETZER

SOURCE: UNNAMED CREEK

POINT OF DIVERSION:

SW1/4 OF NW1/4 OF PROJ. SECTION 29, T17N, R12W, MDB&M

COUNTY: MENDOCINO

USGS QUAD: REDWOOD VALLEY

SCALE: 1:24,000

LICENSE NO. 10887

PERMIT NO.

APPLICATION NO. 23869

STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD  
DIVISION OF WATER RIGHTS

AMENDED LICENSE

DATE:  
8/23/01

DRAWN:  
K. EMANUEL

CHECKED:



STATE OF CALIFORNIA  
THE RESOURCES AGENCY  
STATE WATER RESOURCES CONTROL BOARD  
DIVISION OF WATER RIGHTS

## License for Diversion and Use of Water

10887

APPLICATION 23869

PERMIT 16416

LICENSE 10887

THIS IS TO CERTIFY, That

ROBERT J. FETZER

11000 WEST ROAD, REDWOOD VALLEY, CALIFORNIA 95470

HAS made proof as of MAY 12, 1976 (the date of inspection)  
to the satisfaction of the State Water Resources Control Board of a right to the use of the water of  
AN UNNAMED CREEK IN MENDOCINO COUNTY

tributary to WEST FORK RUSSIAN RIVER THENCE RUSSIAN RIVER

for the purpose of IRRIGATION AND FROST PROTECTION USES  
under Permit 16416 of the Board and that the right to the use of this water has been perfected  
in accordance with the laws of California, the Regulations of the Board and the permit terms; that the  
priority of this right dates from SEPTEMBER 20, 1971 and that the amount of water to which  
this right is entitled and hereby confirmed is limited to the amount actually beneficially used for the stated  
purposes and shall not exceed FOUR-HUNDREDTHS (0.04) CUBIC FOOT PER SECOND, TO BE DIVERTED  
FROM MARCH 15 TO JUNE 1 OF EACH YEAR AND NINE AND FOUR-TENTHS (9.4) ACRE-Feet PER  
ANNUUM, TO BE COLLECTED FROM DECEMBER 1 OF EACH YEAR TO JUNE 1 OF THE SUCCEEDING YEAR.  
THE TOTAL AMOUNT OF WATER TO BE TAKEN FROM THE SOURCE SHALL NOT EXCEED 14.2 ACRE-Feet  
PER YEAR. THE MAXIMUM WITHDRAWAL FROM STORAGE SHALL NOT EXCEED 8.2 ACRE-Feet PER YEAR.

THE POINT OF DIVERSION OF SUCH WATER IS LOCATED:

SOUTH 1,770 FEET AND EAST 415 FEET FROM NW CORNER OF PROJECTED SECTION 29, T17N R12W,  
MDB&M, BEING WITHIN SW1/4 OF NW1/4 OF SAID PROJECTED SECTION 29.

A DESCRIPTION OF LANDS OR THE PLACE WHERE  
SUCH WATER IS PUT TO BENEFICIAL USE IS AS FOLLOWS:

FROST PROTECTION AND IRRIGATION OF 8 ACRES WITHIN SW1/4 OF NW1/4 OF PROJECTED  
SECTION 29, T17N, R12W, MDB&M.

THE QUANTITY OF WATER DIVERTED UNDER THIS LICENSE IS SUBJECT TO MODIFICATION  
BY THE STATE WATER RESOURCES CONTROL BOARD, IF, AFTER NOTICE TO THE LICENSEE AND  
AN OPPORTUNITY FOR HEARING, THE BOARD FINDS THAT SUCH MODIFICATION IS NECESSARY  
TO MEET WATER QUALITY OBJECTIVES IN WATER QUALITY CONTROL PLANS WHICH HAVE BEEN  
ESTABLISHED OR MODIFIED PURSUANT TO DIVISION 7 OF THE WATER  
RESOURCES ACT, UNLESS THE BOARD FINDS

*Licensee shall allow representatives of the Board and other parties, as may be authorized from time to time by the Board, reasonable access to project works to determine compliance with the terms of this license.*

*All rights and privileges under this license including method of diversion, method of use and quantity of water diverted are subject to the continuing authority of the Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.*

*Reports shall be filed promptly by licensee on appropriate forms which will be provided for the purpose from time to time by the Board.*

*The right hereby confirmed to the diversion and use of water is restricted to the point or points of diversion herein specified and to the lands or place of use herein described.*

*This license is granted and licensee accepts all rights herein confirmed subject to the following provisions of the Water Code:*

Section 1625. Each license shall be in such form and contain such terms as may be prescribed by the Board.

Section 1626. All licenses shall be under the terms and conditions of this division (of the Water Code).

Section 1627. A license shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code) but no longer.

Section 1628. Every license shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a license is issued takes the license subject to the conditions therein expressed.

Section 1629. Every licensee, if he accepts a license does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any license granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any licensee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any licensee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Section 1630. At any time after the expiration of twenty years after the granting of a license, the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State shall have the right to purchase the works and property occupied and used under the license and the works built or constructed for the enjoyment of the rights granted under the license.

Section 1631. In the event that the State, or any city, city and county, municipal water district, irrigation district, lighting district, or political subdivision of the State so desiring to purchase and the owner of the works and property cannot agree upon the purchase price, the price shall be determined in such manner as is now or may hereafter be provided by law for determining the value of property taken in eminent domain proceedings.

Dated:

MARCH 26 1979

STATE WATER RESOURCES CONTROL BOARD

*W. W. Salomon*

for Chief, Division of Water Rights